

## Federal Communications Commission

DA 02-2972

Before the  
Federal Communications Commission  
Washington, DC 20554

NOV - 5 2002

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Blessed Sacrament Catholic School	)	File No. SLD-292832
Newark, New Jersey	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21✓
National Exchange Carrier Association, Inc	)	

**ORDER**

Adopted: November 1, 2002

Released: November 4, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Blessed Sacrament Catholic School (Blessed Sacrament), Newark, New Jersey.<sup>1</sup> Blessed Sacrament seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting Blessed Sacrament's appeal on the grounds that it was untimely filed.<sup>2</sup> For the reasons set forth below, we affirm SLD's rejection and deny Blessed Sacrament's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on June 17, 2002, approving Blessed Sacrament's request for discounted services under the schools and libraries universal service support mechanism.<sup>3</sup> Specifically, SLD approved Blessed Sacrament's request for discounts for telecommunications services, Funding Request Numbers (FRNs) 748935 and 748936, but modified the requested funded amount to correct the site-specific discount.<sup>4</sup> On September 30, 2002, Blessed Sacrament filed an appeal of SLD's decision stating that Blessed Sacrament accidentally made a typographical error on its FCC Form 471.<sup>5</sup> On October 1, 2002,

<sup>1</sup> Letter from Scott DeCarolis, Blessed Sacrament Catholic School, to Federal Communications Commission, filed October 8, 2002 (Request for Review).

<sup>2</sup> *Id.*

<sup>3</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ronald Martel, Blessed Sacrament Catholic School, dated June 17, 2002 (Funding Commitment Decision Letter).

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Scott DeCarolis, Blessed Sacrament Catholic School, to Schools and Libraries Division, Universal Service Administrative Company, filed September 30, 2002 (Request for Administrator Review).

SLD issued an Administrator's Decision on Appeal indicating that it would not consider Blessed Sacrament's appeal because it was received more than 60 days after the June 17, 2002 Funding Commitment Decision Letter was issued.<sup>6</sup> Blessed Sacrament subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued on or after August 13, 2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed.<sup>7</sup> Documents are considered to be filed with the Commission or SLD only upon receipt.\* Because Blessed Sacrament's Request for Administrator Review was not filed within the requisite 60-day period, we affirm the Administrator's Decision on Appeal and deny the instant Request for Review.

4. To the extent that Blessed Sacrament is requesting that we waive the 60-day deadline for its underlying appeal of SLD's denial of its FCC Form 471, we deny that request as well.<sup>9</sup> The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.<sup>10</sup> More specifically, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>11</sup>

5. We conclude that Blessed Sacrament has not demonstrated a special circumstance that justifies a waiver of the Commission's rules. Blessed Sacrament states that its technology coordinator was forced to take an emergency leave of absence, which prevent him from filing the appeal in a timely fashion.<sup>12</sup> However, in requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeals within the established deadline if the applicant wishes its appeals to be considered on the merits. It is well established that personnel disruptions do not relieve an applicant of this responsibility.<sup>13</sup>

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<sup>6</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Scott DeCarolis, Blessed Sacrament Catholic School, dated October 1, 2002 (Administrator's Decision on Appeal).

<sup>7</sup> 47 C.F.R. § 54.720(b). See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. December 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. December 28, 2001 and January 4, 2002).

<sup>8</sup> 47 C.F.R. § 1.7.

<sup>9</sup> See 47 C.F.R. § 54.720(b).

<sup>10</sup> See 47 C.F.R. § 1.3.

<sup>11</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

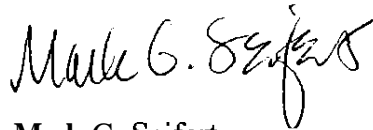
<sup>12</sup> Request for Waiver at I.

<sup>13</sup> *Request for Review by Immaculate Conception School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC 47012-0 1-9902900004, CC Docket Nos. 96-45 and 97-21, Order, DA 01-1120 (Com. Car. Bur. rel. May 2, 2001).

6. In light of the thousands of applications that SLD must review and process each year, it is administratively necessary to place on the applicant the responsibility of complying **with** all relevant rules and procedures. In order for the program to **work** efficiently, the applicant **must** assume responsibility for timely submission of its appeals if it wishes them to be considered on the merits. Here, Blessed Sacrament fails to present good cause why it could not timely file its appeals. We, therefore, find no basis for waiving the deadline **for** the filing of Blessed Sacrament's appeal with SLD.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, **47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a)**, that the Request for Review filed by Blessed Sacrament Catholic School, Newark, New Jersey on October 8, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark G. Seifert", with a stylized flourish at the end.

**Mark G. Seifert**

Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau